



FREDERICK COUNTY PLANNING COMMISSION

July 8, 2015

TITLE: **MGP Retail Consulting**

FILE NUMBER: **SP-88-46, AP#15395, APFO#15397, FRO#15398**

REQUEST: **Site Development Plan and APFO Approval**
The Applicant is requesting site development plan and adequate public facilities ordinance approval for a 30,803 square foot grocery store, on a 3.45-acre site

PROJECT INFORMATION:

ADDRESS/LOCATION: Located at the corner of Grove Road and Buckeystown Pike MD 85, south of Guilford Road.

TAX MAP/PARCEL: Tax Map 77, Parcel 186 Lots 10R-A, 10R-B & 11A

COMP. PLAN: General Commercial

ZONING: General Commercial

PLANNING REGION: Frederick

WATER/SEWER: W-1/S-1

APPLICANT/REPRESENTATIVES:

APPLICANT: MGP Retail Consulting LLC

OWNER: Newman Park Associates LLC

ENGINEER: Bohler Engineering

ARCHITECT: N/A

ATTORNEY: N/A

STAFF: Tolson DeSa, Principal Planner II

RECOMMENDATION:

Conditional Approval

ATTACHMENTS:

Exhibit 1-Site Plan Rendering

Exhibit 2-Modification Justification Letter

Exhibit 3-MGP Retail Letter of Understanding

STAFF REPORT

ISSUE

Development Request

The Applicant is requesting site plan and adequate public facilities approval for a 30,803 square foot grocery store. The proposed use is being reviewed as an "Department store or variety store" land use under the heading of *Commercial Uses-Retail* per §1-19-5.310 Use Table in the Zoning Ordinance and is a principal permitted use in the General Commercial Zoning District subject to site development plan approval.

Modification Request:

1. Loading Space Count & Dimension Modification
2. Parking Space Count & Dimension Modification
3. Alternative Landscape Plan Modification

BACKGROUND

Development History

Subdivision and Site Plan Approval History: Frederick Industrial Center was originally recorded as "Newman (Industrial) Park" in the 1970's. After a series of re-subdivisions, the name of the development changed to "Frederick Industrial Park" in the 1980's. Approximately 35 industrial lots were recorded throughout the 1970's and 1980's.

On July 20, 2005 the Frederick County Planning Commission (FcPc) approved a Combined Preliminary (Re-Subdivision) Plan and Site Plan. The Applicant's 2005 application executed the following:

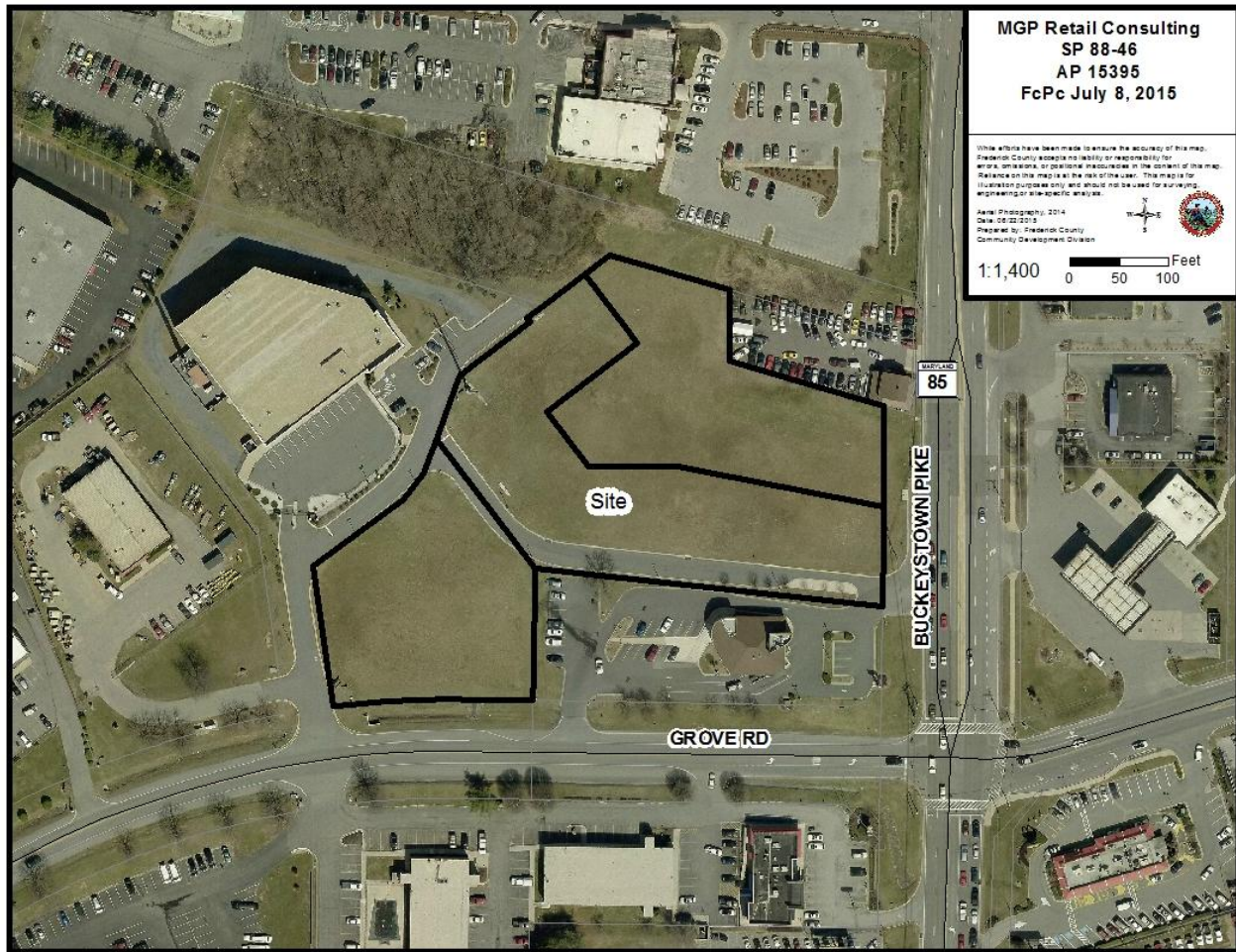
- ☐ Re-subdivision for Lots 10R and 11 into Lots 10R-A, 10R-B and 11A, 11B
- ☐ Final Site Plan Approval for Lot # 11-B, ezStorage Facility;
- ☐ APFO approval.

This site had prior subdivision plan approval for three lots (AP 4243) and is now being combined via additional plat into one 3.45 acre lot (AP 15555).

Existing Site Characteristics

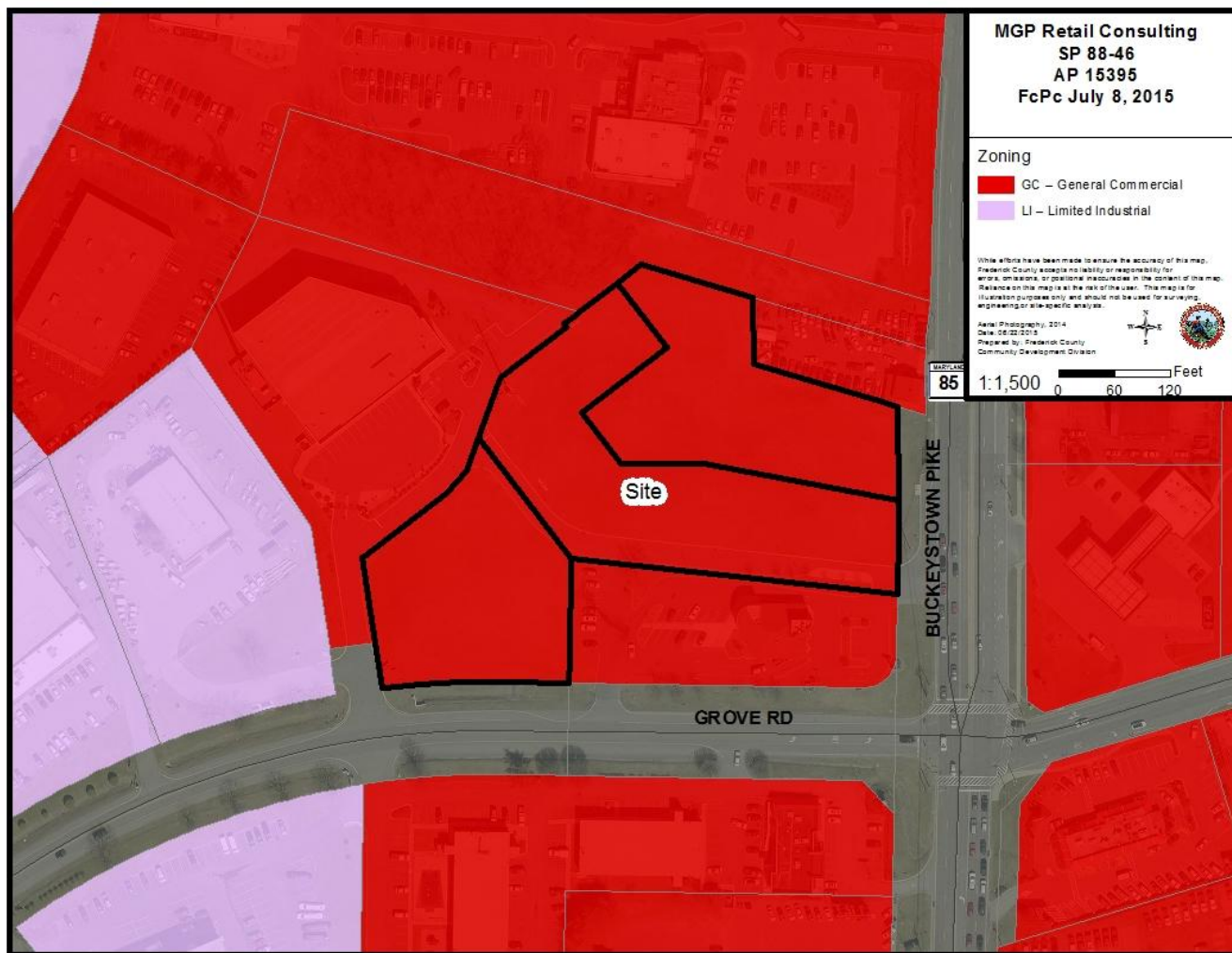
The site is currently vacant level ground, (see Graphic #1 below). The property to the north of the site is developed with an auto vehicle sales lot. The property to the south is developed with a bank. The property to the west is developed with a self storage facility and cell tower. MD 85 is the eastern border of the site.

Graphic #1: Site Aerial



The site is zoned General Commercial (GC) with a Comprehensive Plan designation of General Commercial (GC). Properties to the north, south, east and west also reflect GC zoning and Comprehensive Plan designation (see Graphic #2 below).

Graphic #2: Site Zoning



ANALYSIS

Summary of Development Standards Findings and Conclusions

The main issues associated with this development proposal are the placement of the loading space, overall access management into and out of the site, and the treatment of the rear façade. This site is challenging due to the existing adjacent structures as well as the irregular lot configuration.

The Applicant worked with Staff in order to reconfigure the loading space from the rear of the structure to the present side location. This shift allowed for the building to be better sited towards MD 85, and also allowed a better parking lot configuration. Staff and the Applicant also worked on developing a safe and efficient vehicle and pedestrian transportation plan in order to maximize the efficiency of this unique lot. The Applicant cooperated with Staff's suggestions for increased landscaping along the western building façade and decreasing the length and amount of long plain wall section facing MD 85. The rear of the structure is adjacent to an existing utility easement, which creates challenges with landscaping and screening.

Detailed Analysis of Findings and Conclusions

Site Development Plan Approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County zoning ordinance.

Site Development §1-19-3.300.4 (A): *Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.*

Findings/Conclusions

1. Dimensional Requirements/Bulk Standards §1-19-6.100:

The proposed Site Development Plan adheres to the lot dimensions required for a Commercial Use in the General Commercial Zoning District.

The proposed setbacks for the grocery are the following:

	<u>Required</u>	<u>Proposed</u>
Minimum Lot Area	12,000	3.45 acres
Minimum Lot Width	100'	202' & 202.67'
Front Yard	25'	165.4' & 170.0'
Side Yard	8'	16' & 40'
Max Building Height	60'	33.5'

- Note this site is a corner lot containing two front yards and two side yards, therefore no rear yard is required.

2. Signage §1-19-6.300: The Applicant is permitted to have 195.91 square feet of total signage based on the length of the two facades facing the public streets. The signage calculation is listed in Signage Note on Sheet 2 of the site plan. The Applicant intends to utilize the total 195.91 square feet of allotted signage. Monument ground signage details are available at this point in the development process and have been provided as part of the site plan. The monument signage as well as the remaining signage for the site will be reviewed and approved as a separate permit.. The total proposed amount of signage meets the requirements of the zoning ordinance.

3. Landscaping §1-19-6.400: The Applicant has provided a landscaping plan on Sheet 5 of the site plan. The landscaping plan proposes a mixed of evergreen and deciduous tree and shrub species in order to be compliant with the zoning ordinance as well as increase the aesthetic of the site and overall development. The proposed landscaping meets the requirements listed in 1-19-6.400 of the Zoning Ordinance for canopy cover, parking area landscaping, buffering and screening and street trees. The Applicant is requesting a modification in accordance with 1-19-6.400.I in order to provide an alternative landscaping plan. There are five islands located within the parking area where the required trees could not fit with the addition of the pedestrian sidewalk and proper lighting. The required parking lot trees were shifted to the rear and sides of the proposed building in order to fulfill the intent of 1-19-6.400. The Applicant and Staff worked to design a landscape plan which introduced a significant amount of landscaping along the rear of the building in order to help soften the large rear brick wall, as well as provide for increased aesthetics throughout the site. Staff has no objection to this modification for an alternative landscape plan for this site.

4. **Screening §1-19-6.400:** The parking areas are located in the south and east of the proposed grocery. The Applicant has provided for a wide assortment of shrubs and trees that will help screen the parking field from Grove Road and MD 85. The proposed evergreen shrubs along MD 85 meet the requirements of the zoning ordinance for buffering and screening the parking area from the adjacent roadway.
5. **Lighting §1-19-6.500:** The Applicant has proposed a lighting plan, which is shown on Sheet 9 of the site plan. The lighting plan adheres to the requirements of 1-19-6.500 and does not show any light spillage over 0.5 foot candles.

Conditions

1. **Alternate Landscaping Plan: (§1-19-6.500.I):** the Applicant is requesting approval to allow 5 of the required parking area trees to be located throughout the development as depicted on the MGP Retail Consulting Site Development Plan rather than at the end of the parking bays.

Transportation and Parking §1-19-3.300.4 (B): The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.

Findings/Conclusions

1. **Access/Circulation:** This site contains frontage on MD 85 as well as Grove Road. The MD 85 access is a shared access with the existing bank to the south of the proposed grocery. The MD 85 access to the grocery will be an ingress/ right-in only, which eventually turns two-way to provide full circulation around the main parking field.

The second access point is proposed as a 40' wide full movement access to the existing service road that connects with Grove Road and extends north to serve the existing EZ Self Storage building. The existing service road is intended to provide interior access from Grove Road through the site with eventual connection to the existing Evergreen Shopping Center to the north at the time that the vacant intervening parcel is developed.

2. **Connectivity §1-19-6.220 (F):** The proposed grocery site will utilize the existing access point to MD 85 to the east as well as an access point to the service road that runs north/south from Grove Road. The north bound service road stubs into a vacant intervening parcel and will be extended when the site is developed providing for internal connectivity between sites. The site provides numerous existing and potential access points and connections with surrounding properties.
3. **Public Transit:** This site is served by the #20 Francis Scott Key Mall Connector with a stop located at the northeast corner of MD 85 and Grove Road.
4. **Vehicle Parking and Loading §1-19-6.200-through 1-19-6.220:**

- a. **Parking:** In accordance with the parking target requirements for a retail store one space is required for every 250 square feet of floor area excluding preparation and/or storage areas. The grocery store is proposed at 30,803 square feet.

Therefore, the required number of parking spaces is 124 with 6 ADA accessible spaces. The Applicant has provided 129 vehicle parking spaces, including 6 ADA spaces.

In accordance with §1-19-6.220.A.1, the Applicant is seeking approval of a modification to allow a 5 space increase from the target number of parking spaces. The Applicant has provided a modification justification statement (see Exhibit #2). The Applicant has requested the increase in the number of parking spaces based on characteristics of the proposed use that necessitate meeting internal MGP business model guidelines. Staff has no objection to the increase of 5 spaces from the target parking number.

Parking Stall Modification: 1-19-6.220.B.2&3 and 19-6.220(A)(4): The Applicant is also seeking a parking stall modification to allow 10'x18' and 10'x20' parking stalls in lieu of the required 9'x18' parking stalls. The Applicant is requesting to provide the following; 72-10'x20' parking stalls, and 51-10'x18' parking stalls. The Applicant has submitted a modification statement (See Exhibit#2). The request for larger stalls arises from the proposed use as a grocery store which is better suited to wider spaces to accommodate grocery carts and the loading and unloading of merchandise. Staff has no objection to the modified parking stall dimensions.

b. Loading: The Applicant is required to provide 4 large loading spaces in accordance with Zoning Ordinance Section 1-19-6.210 for the building. The Applicant is seeking a modification in order to provide one large loading space, with a modified dimension of 15'x85' in lieu of the required 12'x50' loading space. The Applicant has provided a modification statement (see Exhibit #2).

5. Bicycle Parking §1-19-6.220 (H): The Applicant is required to provide 7 bike racks; the Applicant has provided 7 bike racks at the entrance of the grocery. A note has been added to the plan to require that the bicycle parking meet the standards of the Frederick County Bicycle Design Guide.

6. Pedestrian Circulation and Safety §1-19-6.220 (G): The Applicant has worked with Staff in order to provide a comprehensive network of pedestrian sidewalks and crosswalks, that provide safe and efficient pedestrian connections between the parking areas and the grocery store.

The Applicant is proposing a 5' sidewalk along the site frontage on MD 85. The sidewalk then be extended south off-site, along the MD 85 frontage, to the intersection of MD 85/Grove Road. This sidewalk extension will provide safe access to the bus stop as well as the existing sidewalk on the east side of the intersection. The ADA non-compliant pedestrian crossing and landings in the northern two quadrants of the intersection would be corrected.

In addition, the sidewalk along MD 85 would extend into the interior of the site, from the access point, in order to provide a centrally located pedestrian pathway within the middle of the main parking field. The Applicant has also proposed another east-west pathway system beginning at the front of the proposed building and heading west to provide a safe pedestrian access to the western most parking field and adjacent parcel to the west. This pedestrian connection includes a 9' wide crosswalk across the main drive isle linking the western parking field to the building.

Conditions

- 1. Parking Modification: 1-19-6.220.A.1:** The Applicant is seeking a modification to allow a 5 space increase above the target number of parking spaces.
- 2. Parking Stall Modification: 1-19-6.220.B.2&3:** The Applicant is seeking a parking stall modification to allow 10'x18', 10'x20', and 8'x20' parking stalls in lieu of the required 9'x18' parking stalls, for the proposed grocery store use with frequent vehicle turnover of spaces, and the need to accommodate grocery carts.

3. **Loading Modification: 1-19-6.210.A.2:** The Applicant is seeking a loading space modification in order to provide one large loading space, with a modified dimension of 15'x85' in lieu of the required 4-12'x50' loading spaces.

Public Utilities §1-19-3.300.4 (C): *Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.*

Findings/Conclusions

1. **Public Water and Sewer:** The site is to be served by public water and sewer and is classified W-1, S-1. The entire site is in pressure Zone #1 with water coming from New Design Road WTP and Sewer flowing into the Ballenger McKinney WWTP.

Natural features §1-19-3.300.4 (D): *Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.*

Findings/Conclusions

1. **Topography :** The site has been previously graded and is level with MD 85 and Grove Road.
2. **Vegetation:** The site has been previously graded and is planted with grass.
3. **Sensitive Resources:** The site does not contain wetlands, FEMA floodplain, flooding or wet soils.

Common Areas §1-19-3.300.4 (E): *If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.*

Findings/Conclusions

1. **Proposed Common Area:** This site is a retail grocery store with no proposed common areas.

Other Applicable Regulations

Stormwater Management – Chapter 1-15.2: All site stormwater management (SWM) shall be in accordance with the “2009 Maryland Stormwater Design Manual”. A SWM Concept Plan (AP 15396), has been submitted and is conditionally approved.

Subdivision Regulations – Chapter 1-16: The Applicant has submitted an addition plat (AP 15555) which proposes to join Lots 10, 10RB, and 11, to create a 3.45 acre lot to be known as Lot 12. The addition plat shall be recorded prior to final signature approval of the site development plan.

APFO – Chapter 1-20:

1. **Schools.** Schools are not required to be tested due to the commercial uses proposed.
2. **Water/Sewer.** While the public sewer and water facilities are currently adequate to serve the Project, the Applicant is aware that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded and building permits will be issued. Plat recordation and building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article § 9-512, et seq. and all applicable County regulations, including but not limited to § 1-16-106 of the Frederick County Subdivision Regulations.
3. **Roads.** No traffic impact analysis was performed for the Project because another study from a neighboring property had just been submitted for review and was used to make APFO findings. This is a re-testing of a previously satisfied APFO approval for the same site that was approved by the Commission on January 14, 2009 with an expiration date of January 14, 2018, for a 4,900 square foot convenience store with gasoline pumps and a 9,000 square foot shopping center, mitigation has been paid. Based on that approval and the ITE trip generation rates for grocery stores, development of the site would result in 5 additional weekday pm peak hour trips. However from a total site perspective, the grocery store site is capped at 105 am and 292 pm weekday, and 328 Saturday peak hour trips.

In full satisfaction of the APFO requirements in §1-20-31, the Developer shall construct an on and off-site sidewalk and crosswalks along the west side of MD 85 from the north end of the site to the MD 85/Grove Road intersection, as required by the State Highway Administration. This improvement shall be guaranteed by (SHA permit issued) prior to the issuance of the building permit and open to pedestrian for use prior to the issuance of a Certificate of Occupancy.

The Developer is required to provide fair share contributions to existing escrow accounts that are impacted by the site, per §1-20-12(H). The following account is the only one impacted by the development: Existing Escrow Account #3976 for MD 85/Guilford Drive Intersection: Addition of a second northbound left turn lane on MD 85-The estimated cost of the Road Improvement is \$439,527. The Developer's proportionate share of this Road Improvement is 1.53%. Therefore, the Developer hereby agrees to pay \$6,725 to the escrow accounts for these Road Improvements. Should these payments not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on July 8, 2018.

Forest Resource – Chapter 1-21: FRO requirements for this site were met with a previously approved site plan AP# 13540. FRO FIL payment made for this site on 6/5/06. FRO exemption approved.

Historic Preservation – Chapter 1-23: There are no historic resources located on site.

Findings/Conclusions

Summary of Agency Comments

<i>Other Agency or Ordinance Requirements</i>	<i>Comment</i>
<i>Development Review Engineering (DRE):</i>	Approved
<i>Development Review Planning:</i>	Hold: Address agency comments as the plan proceeds through to completion.
<i>State Highway Administration (SHA):</i>	Conditional Approval
<i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i>	Conditional Approval
<i>Health Dept.</i>	N/A
<i>Office of Life Safety</i>	Approved
<i>DPDR Traffic Engineering</i>	Approved
<i>Historic Preservation</i>	N/A

RECOMMENDATION

Staff has no objection to conditional approval of the site plan and Adequate Public Facilities. If the Planning Commission conditionally approves the site plan, both the site plan and the APFO approval are valid for a period of three (3) years from the date of Planning Commission approval and are therefore valid until July 8, 2018.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

1. Address all agency comments as the plan proceeds through to completion.
2. Total on-site signage is limited to a maximum of 195.91 square feet.
3. Prior to final signature approval of the MGP Retail Consulting site development plan the Applicant shall record Addition Plat (AP 15555) and list new liber folio numbers in the site plan notes of MGP Retail Consulting (AP 15395).
4. Complete the requirements of Frederick Industrial Center: Grocery Store APFO LOU.
5. Planning Commission approval of the requested Parking Modification (§1-19-6.220.A.1) to allow 129 parking spaces which is an increase of 5 spaces over the required number of 124 parking spaces.
6. Planning Commission approval of the requested Parking Stall Modification (§1-19-6.220.B.2&3) to allow 10'x18', 10'x20', and 8'x20' parking stalls in lieu of the required 9'x18' parking stalls.
7. Planning Commission approval of the requested Loading Modification (§1-19-6.210.A.2) to allow one large loading space, with a modified dimension of 15'x85' in lieu of the required 4-12'x50' loading spaces.
8. Planning Commission approval of an Alternate Landscaping Plan to allow 5 of the required parking area trees to be located throughout the development as depicted on the MGP Retail Consulting Site Development Plan rather than at the end of the parking bays.

PLANNING COMMISSION ACTION

I move that the Planning Commission **APPROVE the MGP Retail Consulting Site Development Plan SP-88-46/AP 15395 with conditions** as listed in the staff report **including APFO approval** for the proposed 30,803 square foot grocery store, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.



Exhibit #2: MGP Retail Consulting Modification Letter



BOHLER[™]
ENGINEERING

901 Dulaney Valley Road, Suite 801
Towson, MD 21204
PHONE 410.821.7900
FAX 410.821.7987

June 25, 2015

Frederick County
Division of Permitting and Development Review
30 North Market Street
Frederick, Maryland 21701

Re: Modification Request
MGP Retail Consulting, LLC
Frederick Industrial Center
Buckeystown Pike and Grove Road
Frederick County, MD
BEPC #MD142110

To Whom It May Concern:

Bohler Engineering on behalf of its Client, MGP Retail Consulting, LLC, is seeking a modification to the regulation pursuant to Section 1-19-6.210-B which states that: "Single-user retail, all industrial and all wholesale [require] 1 large and 1 additional large [loading] space for each additional 10,000 sq. ft. or part thereof over 5,000 sq. ft." For a 30,803 sq. ft. building, four (4) loading spaces would be required. The proposed use requests to provide 1 large loading space in lieu of the required 4 spaces. The request for relief arises from the unique shape of the site and size of prototypical building that will fit within the space provided.

MGP Retail Consulting is additionally seeking a modification to the regulation pursuant to Section 1-19-6.210-A-2 which states that: "A large loading space shall have minimum dimensions of not less than

- (a) Twelve (12) feet in width;
- (b) Fifty (50) feet in length; and
- (c) Fifteen feet in height clearance"

MGP Retail Consulting proposes a 15' x 85' loading space in lieu of the required 12' x 50' loading space. The request for relief arises from the prototypical building design and the need to provide a loading space of adequate size for the delivery truck utilized without blocking drive aisles.

MGP Retail Consulting is additionally seeking a modification to the regulation pursuant to Section 1-19-6.220-A-1 which states that: "A retail store [requires] 1 parking space for each 250 sq. ft. of floor area excluding preparation and/or storage areas." For a 30,803 sq. ft. building, 124 parking spaces would be required. The proposed use requests to provide 129 parking spaces in lieu of the required 124 spaces. The request for relief arises from the need for MGP Retail Consulting to provide adequate parking for their employees and customers and to allow their building to function properly as determined by current MGP Retail Consulting prototypical design guidelines.

MGP Retail Consulting is additionally seeking a modification to the regulation pursuant to Section 1-19-6.220-B-1 which states that a standard parking space shall be 9 feet by 18 feet with 90 degree parking. The proposed use requests to provide 10 feet by 20 feet and 10 feet by 18 feet parking spaces in lieu of the required 9 feet by 18 feet. The request for relief arises from the desire for MGP Retail Consulting to provide additional parking space width to enhance their customer experience and to allow their site to function properly as determined by current MGP Retail Consulting prototypical design guidelines.



MGP Retail Consulting is additionally seeking a modification to the regulation pursuant to Section 1-19-6.400-D-1 which states that between or at the end of each bay of parking spaces there shall be a planting area of at least 5 feet in width and that each planting area shall contain 1 tree at least 6 feet in height at the time of planting and groundcover containing at least two shrubs for every 100 square feet of landscape area. Pursuant to Section 1-19-6.400-I the Planning Commission may modify the minimum landscaping, buffering, and screening standards where specific finding is made that the required standards result in a practical difficulty, and where an alternate landscaping, buffering, and screening plan is approved by the Planning Commission. The request for relief arises from desire by both MGP and County staff to accommodate pedestrian access through the site and to provide adequate lighting in the parking lot for safety and security. In response to this request, the trees which would be required at the end of parking bays have been relocated on-site and canopy cover for the site has been planted well above County minimum requirement of 20%.

In light of the aforesaid, it is our contention that the above modifications should be granted. We would request your confirmation of the same.

If you should have any questions or require additional information, please do not hesitate to contact our office at (410) 821-7900.

Sincerely,

BOHLER ENGINEERING

Matthew Destino, P.E.
Assistant Project Manager

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FREDERICK COUNTY GOVERNMENT

DIVISION OF COMMUNITY DEVELOPMENT

Department of Planning & Development Review

Jan H. Gardner
County Executive

Steven C. Horn, *Division Director*
Jim Gugel, *Director*

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Frederick Industrial Center: Grocery Store

Site Plan #SP 88-46 (99-19) AP #15397

In General: The following Letter of Understanding ("**Letter**") between the Frederick County Planning Commission ("**Commission**") and MGP Realty Consulting, LLC. (the "**Developer**"), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the MGP Retail Site Plan (the "**Project**"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("**APFO**").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (land conveyance and contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's approximate 3.45 acre compilation of lots which is zoned GC (General Commercial), and located in the northwest quadrant of MD 85 and Grove Road. This APFO approval will be for the development of a 30,803 sq. ft. grocery store, which is shown on the site plan for the above-referenced Project, which was conditionally approved by the Commission on July 8, 2015.

Schools: Schools are not impacted because the development of the property is a non-residential use.

Water and Sewer: The Property has a water and sewer classification of W-1 (Connected), S-1 (Connected). While the public sewer and water facilities are currently adequate to serve the project, the Developer recognizes that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that building permits will be issued. Building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et. seq and all applicable county regulations.

Road Improvements: No traffic impact analysis was performed for this Project because another study from a neighboring property had just been submitted for review and was used to make APFO findings. This is a re-testing of a previously satisfied APFO approval for the same site that was approved by the Commission on January 14, 2009. Based on that approval and the ITE trip generation rates for grocery stores, development of the site would result in 5 additional weekday pm peak hour trips. However from a total site perspective, the grocery store site is capped at 105 am, 292 pm, and 328 Saturday peak hour trips.

Frederick County: Rich History, Bright Future
30 North Market Street, Frederick, MD 21701 • 301-600-1138 • Fax 301-600-1645
www.FrederickCountyMD.gov

In full satisfaction of APFO requirements to mitigate site-generated trips per §1-20-31, the Developer shall construct an on and off-site sidewalk and crosswalks along the west side of MD 85 from the north end of the site to the MD 85/Grove Road intersection, as required by the State Highway Administration. An escrow account for off-site pedestrian improvements shall be established so that future developers can contribute funds to this escrow account, up to but not including this Developer's fair share amount, which is 11.54 % of the improvement. **This improvement shall be guaranteed (SHA permit issued) prior to the issuance of the building permit and open to pedestrians for use prior to the issuance of a Certificate of Occupancy.**

The Developer is required to provide fair share contributions to existing escrow accounts that are impacted by the site, per §1-20-12(H). The following account is the only one impacted by the development: Existing Escrow Account #3976 for MD 85/Guilford Drive Intersection: Addition of a second northbound left turn lane on MD 85 - The estimated cost of the Road Improvement is \$439,527. The Developer's proportionate share of this Road Improvement is 1.53%. **Therefore the Developer hereby agrees to pay \$6,725 to the escrow account for this Road Improvement, prior to the issuance of any building permits.** Should these payments not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on July 8, 2018.

Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

[Signatures Next Page]

MGP Realty, LLC:

By: _____

Patrick Waldron

Date: _____

6/16/15

FREDERICK COUNTY PLANNING COMMISSION:

By: _____

Dwayne E. Robbins, Chair or Anthony Bruscia, Secretary

Date: _____

ATTEST:

By: _____

Gary Hessong, Director, Permits & Inspections

Date: _____

Planner's Initials / Date _____
(Approved for technical content)

County Attorney's Office Initials / Date _____
(Approved as to legal form)